

A Guide to Conducting Executive Sessions

The Kansas Open Meetings Act (KOMA) allows (not requires) public bodies such as conservation district boards under limited circumstances to discuss matters privately in a closed or executive session by following correct procedures. This guide is designed to assist the conservation district board members in understanding the law and providing specific information as it relates to conservation districts.

Procedures to be followed for Executive Session

- Must convene open meeting first.
- A formal motion is made to recess into executive session and shall include a statement providing:
 - Justification for closure;
 - Subject(s) to be discussed; and
 - Time and place open meeting will resume.
- The board members may discretionarily include anyone they believe will aid them in the discussion.
- Motion is seconded and carried.
- Discuss only those subjects stated in the motion.
- No binding action may be taken, but can reach an informal consensus (no voting).
- Reconvene open meeting at the specified time.
- If additional time is needed for further discussion, must repeat above steps.
- After the open meeting is resumed, take official action, if needed, or if none state, “No action will be taken from executive session.”
- The executive session motion must be recorded in minutes.
- The confidentiality of an executive session should be maintained because discussion outside of executive session may violate the public trust and may even result in the violation of an individual’s privacy right.

Other Resources:

- Chapter 3 of the *Kansas Conservation District Handbook*.
- Chapter 2 of the *Kansas Conservation District Supervisors Handbook*.
- Conservation District Training Module IV, *Board Meetings*.
SCC website: www.scc.ks.gov
- Attorney General’s website: www.ksag.org/page/open-and-honest-government
- State Conservation Commission staff : 785.296.3600

Below are the common subjects a conservation district may hold an executive session with example motions.

- 1. Personnel matters of non-elected personnel** (to discuss a conservation district employee or to interview and discuss applicants for employment):

“I move we recess into executive session to discuss personnel matters of non-elected personnel in order to protect the privacy interest of the individual(s) to be discussed, with names of person(s) to be present in addition to the board, and that we will reconvene the open meeting in this room at specify time.”

- 2. Consultation with the board’s attorney** (to discuss privileged communication with attorney present and no other third parties may be present):

“I move we recess into executive session for consultation with our attorney, name(s), on a matter protected by the attorney-client privilege in order to protect the privilege and the board’s position in specify litigation, potential litigation, administrative proceedings, etc., and that we will reconvene the open meeting in this room at specify time.”

- 3. Preliminary discussions relating to acquisition of real property** (to discuss acquisition only, not sale of property):

“I move we recess into executive session to have preliminary discussions about the acquisition of real property in order to protect the public interest in obtaining property at a fair price, and that we will reconvene the open meeting in this room at specify time.”

Additional Information for Minutes:

- State the time the executive session started.
- Indicate anyone dismissed from the executive session before session ends with the time of dismissal.
- State the time the executive session ended.
- State (after the motion to reconvene the open meeting) the time meeting reconvened.
- Record the action taken from the executive session or the no action taken statement.